



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
OFFICE OF COASTAL ZONE MANAGEMENT
251 Causeway Street, Suite 800, Boston, MA 02114-2136
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May 22, 2013

Margaret Sheehan, Esq.
EcoLaw
P.O. Box 380083
Cambridge, MA 02338

Dear Ms. Sheehan:

As a follow up to our initial response on March 22, the Massachusetts Office of Coastal Zone Management (CZM) has reviewed your March 18, 2013 letter asserting that Entergy Nuclear Generation Company's ("Entergy") construction of an interim spent fuel storage installation (ISFSI) at the Pilgrim Nuclear Power Station in Plymouth, Massachusetts is subject to federal consistency review under the federal Coastal Zone Management Act and state implementing policies and regulations. In the letter, ECOLAW/Pilgrim Coalition states that Entergy is in the process of obtaining a Nuclear Regulatory Commission (NRC) general license for the construction of an ISFSI in the Massachusetts coastal zone and that this license triggers CZM jurisdiction. EcoLaw/Pilgrim Coalition also states that it believes that Entergy, using federal government funds for the purchase of dry casks to be used for the storage of the spent nuclear waste, is acting on behalf of the Department of Energy and therefore subject to review by CZM as a federal agency activity.

CZM has conducted a review of the claims contained in the ECOLAW/Pilgrim Coalition letter and of the federal actions in question, specifically the NRC general license for the construction of an ISFSI and the use of federal government funds for the purchase of dry casks. Based on our review, the construction of an ISFSI does not constitute either a renewal or a major amendment to the current NRC facility operating license, which was previously reviewed by CZM, nor do we find that there will be effects substantially different than previously described.

It is our understanding that Entergy intends to store spent nuclear fuel in an ISFSI and that this storage will be accomplished in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72, Subpart K, *General License for Storage of Spent Fuel at Power Reactor Sites*. 10 CFR § 72.210, *General License Issued*, states that a general license is issued for the storage of spent fuel in an ISFSI at power reactor sites for entities licensed to operate nuclear power reactors under 10 CFR Part 50 or 10 CFR Part 52. Under its facility operating license which also covers source, special nuclear, and by-product materials licenses, Entergy may construct and store spent nuclear fuel in an ISFSI under a general license, provided it conforms to and complies with the terms and conditions of 10 CFR Part 72 Subpart K, and does not require a license amendment or separate license. According to the regulations at 10 CFR 72.6(a) the general license does not require the filing of an application with the NRC or the issuance of a licensing document. In regards to the construction activities associated with the ISFSI, our understanding is that a facility with an authorized operating

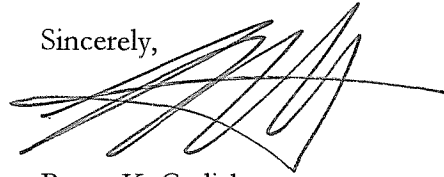


license may perform construction activities associated with an ISFSI under 10 CFR § 50.59, *Changes, Tests, and Experiments*.

With regards to the use of federal government funds for the purchase of the dry casks, federal consistency rules at 15 CFR Subpart F limit state agency review to federal assistance to state or local governments. We have no affirmative notice of federal funding assistance to state or local governments relating to either the construction of the facility or the purchase of the dry cask system.

As a result of our review, CZM has concluded that the construction and operation of the ISFSI is provided for under the existing NRC facility operating license and does not constitute a renewal or a major amendment. Under the general license, the construction of the ISFSI must conform to and comply with the terms and conditions of 10 CFR Part 72 Subpart K. The concurrence determination from CZM in July 2006 remains in effect until such time as a new NRC operating license application is submitted or CZM finds that the activity is having effects on coastal resources or uses that are substantially different than originally described and are no longer consistent with enforceable policies of the Massachusetts Coastal Program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bruce K. Carlisle', with a long horizontal line extending to the right.

Bruce K. Carlisle
Director

cc: Richard K. Sullivan, Jr., EEA Secretary
William Dean, NRC, Region I
Ronald Bellamy, NRC
Town of Plymouth
Massachusetts Attorney General